

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE
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MEMORANDUM

TO: Assessing Officials

CC: County Auditors, County Treasurers, County Commissioners, County Councils

FROM: Cheryl A.W. Musgrave, Commissioner *CSW*

DATE: November 13, 2008

SUBJECT: Transfer of Assessing Duties of Thirty (30) Township Assessors on Jan. 1, 2009

During the 2008 legislative session, the General Assembly transferred the responsibility of property assessments from township trustee assessors and elected township assessors with fewer than 15,000 parcels to the county assessor as of July 1, 2008. The transfer of duties of the remaining 43 elected township assessors to the county assessor in 22 counties was given to the voters as a ballot question at the November 4, 2008 general election.

The November 4, 2008 referenda relieved 30 elected township assessors from further duties. The assessment duties of those elected township assessors will transfer to the county assessor on **January 1, 2009**. Any reference to "elected township assessor" in this memorandum refers to these 30 elected township assessors. No change will result in the status of the remaining 13 townships. A map is attached to clarify the affected townships and counties.

The purpose of this memorandum is to discuss the transfer of assessing duties from 30 elected township assessors to the county assessor as a result of the election on November 4, 2008. This memorandum supplements and updates the memoranda disseminated to assessing officials, county auditors, treasurers, commissioners, and council members dated April 1 and April 14, 2008 and issued to guide officials in the transfer of township trustee assessing functions and elected township assessors in townships with fewer than 15,000 parcels. The memoranda are available on the website of the Department of Local Government Finance ("Department") at: [www.in.gov/dlgf/files/Memo-House_Enrolled_Act_\(HEA\)_1001_and_Assessing_Officials.pdf](http://www.in.gov/dlgf/files/Memo-House_Enrolled_Act_(HEA)_1001_and_Assessing_Officials.pdf) and www.in.gov/dlgf/files/Memo-Transfer_of_Records-Operations-etc-to-County-Assessor.pdf. The January 1, 2009 transfer date of assessing duties townships is **seven weeks away**. To ensure a smooth transition, a high level of cooperation and coordination among all officials involved is in the best interest of the taxpayers.

A timeline for the delivery of the assessing records and office operations to the county assessor is attached and includes a suggested inventory list to assist in the transition of assessing duties.

Effect on Maximum Property Tax Levy

The Department will adjust the maximum property tax levy of a county and a township to reflect the transfer of records and operations from the elected township assessor to the county assessor. The adjusted maximum levy will apply to pay-2010. HEA 1001 (P.L. 146-2008), Section 831.

Township Revenue

“All revenue received” after the January 1, 2009 transfer date “by the township for the purpose of carrying out property assessment duties in the amount determined by the county auditor” must be transferred to the county assessor. HEA 1001 (P.L. 146-2008), Section 834(d).

Organization and Transfer of Records

Each elected township assessor whose assessment duties transfer to the county assessor on January 1, 2009 is required to organize and transfer assessment records in a manner and in accordance with a schedule established by the Department. HEA 1001 (P.L. 146-2008), Section 829(a).

The assessing officials must assist each other and coordinate efforts to:

- ensure an orderly transfer of all assessment records to the county assessor; and
- provide for an uninterrupted and professional transition of the assessment functions to the county assessor consistent with the directions of the Department and the law. HEA 1001 (P.L. 146-2008), Section 829(b).

The elected township assessor must complete the transfer of records and operations to the county assessor before January 1, 2009. HEA 1001 (P.L. 146-2008), Section 829(a).

To ensure the orderly organization and transfer of assessing records, and to provide for the “uninterrupted and professional transition” of the assessment duties from the elected township assessor to the county assessor, the Department hereby directs the following actions:

- On or before **December 1, 2008**, the county assessor must convene a meeting of the relieved elected township assessor(s) to create a detailed timeline. This timeline shall include details to complete the transfer of assessing records, operations, real and personal property, outstanding obligations, funds, and revenues from the elected township assessor to the county assessor. It is strongly recommended that the county auditor, a county council member, a county commissioner, and the county attorney(s), or a representative of these offices, participate in this meeting (or series of meetings) to ensure the transition of assessing duties is completed timely.
- The county assessor may establish one (1) or more satellite offices in the county (IC 36-2-15-3). These locations are at the discretion of the county assessor upon funding by the county council.

- The elected township assessor(s) in the county shall immediately catalogue, inventory, and organize all assessing and non-assessing records, real and personal property, outstanding obligations, and funds for delivery to the county assessor. Participation by the county auditor is recommended to determine the amount of funds of the elected township assessor “on hand for the purpose of carrying out property assessment duties” that is to be transferred to the county assessor. Additionally, consultation with the county attorney is recommended to determine the manner in which outstanding obligations as of December 30, 2008 of the elected township assessor are to be transferred.
 - It is recommended that photographs be taken of all property and records to document their transfer. If a record or item is not transferred, written documentation is strongly suggested to account for its disposition. For example, a microwave purchased with an employee’s own money and brought into the elected township assessor’s office remains the property of the employee; however, to prevent an allegation of theft of county property, the employee should inventory and account for the property as their own and provide that documentation to the county assessor to prevent any confusion as to the proper ownership of the item.

All records, of any type, and related to any function performed for assessment purposes, are required to be delivered to the county assessor. A complete list of these records can be found at www.in.gov/dlgf/files/Memo-Transfer_of_Records-Operations-etc-to-County-Assessor.pdf.

Real and Personal Property

The real and personal property “used solely to carry out property assessment duties” transfer to the county assessor on **January 1, 2009**. HEA 1001 (P.L. 146-2008), Section 834(a)(2)(B).

Records Retention

Each elected township assessor and county assessor must abide by the records retention schedule of the county and all confidentiality laws pertaining to the assessment records. IC 5-15-5.1; IC 5-15-6; IC 6-1.1-35-9. Forms 102, 103, 103-I, 103-N, 103-O, 103-P, 103-R, 103-T, 103-W, and 106 (together with any schedules or other information attached to the form(s)) are confidential and must not be disclosed to any person unless specifically authorized by law.

Because of the serious penalties, it is extremely important that confidential tax returns be preserved in a locked file or other place of safekeeping where they cannot fall into unauthorized hands. Also, the returns should not be left unattended at any time when removed from such filing place for use of assessing officials.

Effect of Transfer of Assessing Duties on Assessment Appeals and Other Acts

No impact will occur on any assessment, appeal, or other official action of the elected township assessor made *before* the January 1, 2009 transfer date. Any assessment, appeal, or other official action made by the elected township assessor within the scope of their official duties *before* the

January 1, 2009 transfer date are considered to have been made by the county assessor. HEA 1001 (P.L. 146-2008), Section 830(a).

Any pending action against, or the rights of any party that may possess a legal claim against, the elected township assessor that is unrelated to any assessment, appeal, or other official action is not affected by the January 1, 2009 transfer of assessing duties. HEA 1001 (P.L. 146-2008), Section 830(b).

The “**county assessor is recused from any action the county board [PTABOA] takes with respect to an assessment determination by the county assessor.**” IC 6-1.1-15-1(k). Thus, any assessment made by the elected township assessor before the January 1, 2009 transfer date is considered as having made by the county assessor. As a result, the county assessor is recused from voting on that elected township assessor’s assessment as a member of the PTABOA.

Employment of Elected Township Assessor

An elected township assessor relieved of duties is entitled to remain in office until the end of the original term. The sole duty of the elected township assessor is to assist the county assessor in the transfer of records and operations from the township assessor to the county assessor which must be complete on January 1, 2009. HEA 1001 (P.L. 146-2008), Section 832(b).

“Employment positions” as of December 31, 2008 of each elected township assessor transfer to the county assessor on **January 1, 2009**, including:

- (1) the employment position (the budgetary “line item”) of the **elected township assessor**; and
- (2) the employment positions (the budgetary “line items”) of **all employees of the elected township assessor**. HEA 1001 (P.L. 146-2008), Section 834(a)(2)(A).

The transfer of the “employment position” of the elected township assessor means the budget transfers to the county assessor. It does not mean the elected township assessor is now an employee of the county assessor. The elected township assessor remains an elected official.

Additionally, reference to “employment positions of all employees of the elected township assessor” transferring to the county assessor on January 1, 2009 refers to the budget “line item” of such employment positions in the elected township assessor’s budget as of December 31, 2008, and not the physical employee. Employees of elected township assessor, as of March 19, 2008, are *not* guaranteed employment with the county assessor on January 1, 2009.

The transfer of the “employment position” will allow the county to create a new position or positions in the county assessor’s office to carry out the newly assigned assessing duties using the transferred funds. Attorney General’s Official Opinion 2008-2, May 9, 2008, www.in.gov/dlgf/files/Memo-OfficialOpinion_2008-2_HEA1001andTransferofAssessorDuties.pdf.

Dual Officeholding

An elected township assessor may serve as a deputy under the county assessor without violating the constitutional prohibition against dual office holding. Attorney General's Official Opinion 2008-2, May 9, 2008, www.in.gov/dlgf/files/Memo-OfficialOpinion_2008-2_HEA1001andTransferofAssessorDuties.pdf.

Compensation

The compensation (i.e., salary and benefits) of the elected township assessor may not be increased or decreased by a county council for the year in which it is fixed. IC 36-2-5-13; Attorney General's Official Opinion 2008-2, May 9, 2008, www.in.gov/dlgf/files/Memo-OfficialOpinion_2008-2_HEA1001andTransferofAssessorDuties.pdf. For example, the current 2008 salary of an elected township assessor cannot be decreased or increased; however, in the 2009 budget, each county council will have the opportunity to set the compensation level they deem appropriate.

This funding flexibility also holds true for the compensation of the thirteen (13) elected township assessors statewide who won the November 4 referendum and will continue to perform assessing duties in their townships. Their compensation may also be adjusted upward or downward in a year other than the year it is fixed.

The statutory prohibition against adjusting compensation in the same year it is fixed does not apply to deputies or employees. Deputy and employee compensation may be changed at any time pursuant to the procedure allowed under IC 36-2-5-13(a).

An elected township assessor relieved of duties certified as a Level II assessor-appraiser is entitled to receive the annual one thousand (\$1,000) "bonus" so long as he/she continues to maintain the Level II certification until the end of their term. IC 36-6-8-6; IC 36-2-5-3; Attorney General's Official Opinion 2008-2, May 9, 2008, www.in.gov/dlgf/files/Memo-OfficialOpinion_2008-2_HEA1001andTransferofAssessorDuties.pdf.

Employment of Township Assessor Employees

Before **December 31, 2008**, the county assessor must interview, or give the opportunity to interview to, each individual who:

(1) is an **employee of an elected township assessor** on March 19, 2008 whose duties transfer to the county assessor on January 1, 2009 as a result of the referendum; and

(2) who **applies for a job before December 1, 2008**. HEA 1001 (P.L. 146-2008), Section 834(c).

Unemployment Benefits and Assistance in Job Placement

Elected township assessors will not qualify for unemployment benefits. Employment as an elected official cannot be used to qualify for unemployment insurance benefits. IC 22-4-8-

2(i)(2); Attorney General's Official Opinion 2008-2, May 9, 2008, www.in.gov/dlgf/files/Memo-OfficialOpinion_2008-2_HEA1001andTransferofAssessorDuties.pdf.

The Department of Workforce Development (DWD) has been notified by the Department of the need to assist the employees of elected township assessors who will be affected by this transition over the next seven (7) weeks.

Fortunately, DWD offers many options to assist such workers. The Department and DWD encourage each affected person to visit a county WorkOne site where DWD has many excellent personnel able to assist those in need with resumé writing, interviewing skills, and other tips in earning a new job. DWD WorkOne can be reached at 1-800-891-6499 between 8:00am to 5:00pm Monday through Friday; or by email: workone@dwd.in.gov; or by visiting one of DWD's WorkOne sites in counties throughout Indiana. DWD's WorkOne website is: <http://www.in.gov/dwd/>.

If you have questions after you review this memorandum and the attached inventory list, please contact your county attorney. If you have any remaining questions, please feel free to contact the Assessment Division Director, J. Barry Wood at (317) 232-3773 or bwood@dlgf.in.gov; or the General Counsel, Timothy J. Rushenberg at (317) 233-6770 or trushenberg@dlgf.in.gov.

Attachments:

Inventory List

Township Assessor Map

Inventory

I	Furniture & Equipment (*must be used <u>solely</u> to carry out assessing duties)	Serial #	Owned/Leased
	Vehicles		
	Furniture		
	Computers		
	Cameras		
	Other machinery (copier, fax, postage, etc.)		
	Supplies (paper, toner, pens, etc.)		
	Software licenses		
	Cell phone(s)		
II	Office real estate or leases of real estate (*must be used <u>solely</u> to carry out assessment duties)		
	Address	Lessor	Term
III	Office contracts (*must be relating to assessment of real and personal property)		
	Personnel --		
	Equipment --		
	Vehicles --		
	Software --		
	Cell Phone --		
IV	Other Outstanding Obligations (*must be related to assessment of real and personal property)		
	Office Loans --		
V	Funds (*must be for purpose of carrying out assessing duties; county auditor to verify amount)		
	Bank Account --		

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<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Date Signed

<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> County Assessor (typed name)
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> (signature)
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Date Signed

Township Assessor Referendum Results

